C O N F I D E N T I A L BOGOTA 002833

SIPDIS

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TAGS: PGOV PREL PHUM CO
SUBJECT: CONGRESS APPROVES REELECTION REFERENDUM, BUT
HURDLES REMAIN

REF: A. BOGOTA 2772
     ¶B. BOGOTA 2625 AND PREVIOUS

Classified By: DCM Brian A. Nichols, reasons 1.4 (b&d)

SUMMARY

¶1. (SBU) The Colombian Congress has approved legislation for
a referendum on a third term for President Alvaro Uribe in
May 2010, with the September 2 affirmative vote in the House
of Representatives. After presidential signature, the
Constitutional Court -- thought to be supportive of Uribe --
must rule on the constitutionality of the third term. There
are additional legal hurdles that the Uribistas must
navigate, in addition to the task of winning a referendum in
which 25 percent of the electorate must participate. Other
candidacies may be declared as late as mid-March, so Uribe
still has some flexibility in this ever-contracting timeline.
 End Summary.

HOUSE PASSES REFERENDUM BILL BY A SQUEAKER

¶2. (SBU) With a slim one-vote margin, the House of
Representatives on September 2 approved the bill that could
allow President Uribe to run for a third term in 2010 (see
reftels). Approval in the House was an arduous affair, as 96
separate plenary roll-call votes over three days were needed
to permit votes by members who were under investigation for
their previous, allegedly premature, votes for the
referendum. At the eleventh hour, the Radical Change (Cambio
Radical) party also tried to bar five members from voting
because they had violated the party's instructions to oppose
the referendum, but the five members jumped ship to Uribe's
"U" Party and the President of the House allowed them to
vote. These five votes were crucial to the 85-5 result, as
84 votes were needed to approve the measure (most opposition
parties abstained). Interior Minister Fabio Valencia Cossio
led the successful whipping of votes.

¶3. (C) The opposition continues to cry foul on several
procedural questions, and there are numerous accounts
alleging that the government and "U" Party promised
positions, projects and other spoils in exchange for
congressional votes. A range of observers allege that only
such a "fire sale" can explain how the three-month logjam in
Congress was broken. Thus far, no evidence of wrongdoing,
beyond normal political horse trading, has emerged.

NEXT STEPS, REFERENDUM BY MARCH?

¶4. (SBU) The bill now moves to the President's desk for
signature, and then to the Constitutional Court. Uribe's
supporters hope to expedite the court's review by submitting
all documentation in advance, so that it renders a final
verdict within 90 days (instead of the normal maximum of six
months). If the court approves, the Registrar would then
have about three months to organize the referendum, which
could theoretically happen in February or March. The
referendum cannot be held on the same day as an election
(e.g., legislative elections on March 14), but other
referendum questions can be included with the reelection
question. For example, it is likely that a question will be
included on establishing an exception to the constitutional
ban on life sentences for cases involving the rape of a
minor. The addition of this high-profile item could help
increase voter turnout. Presuming the referendum reaches the
required turnout of 7.3 million voters, if current polling
trends hold, Uribe would easily win the referendum (see ref B
for more on obstacles).

A LEGAL CONUNDRUM

¶5. (C) Besides the aforementioned procedural steps, another
major hurdle that Uribe supporters are brainstorming to
resolve is how to reconcile the legal requirement in the "Law
of Guarantees" that a sitting president must declare his
candidacy by November 30 given that the referendum legally
allowing him to declare his candidacy probably will not be
approved until early 2010. Possibilities include amending

the law (requiring yet another battle in the Congress) or
arguing that the referendum (as the will of the people)
supersedes the law. Both "U" Party Secretary General Mario
Solano and "U" Senator Carlos Ferro admitted that Uribe's
supporters had yet to solve this legal puzzle. However, if
the past weeks are any indication, Team Uribe will likely
find a way around this and the other remaining hurdles,
allowing the electorate to have the final say.

COMMENT: URIBE ALSO HAS A SAY

¶6. (SBU) While it is clear that the Uribe Administration is
pulling out all the stops to make the referendum a reality,
Uribe's final intentions remain a mystery. He has yet to
publicly (and even privately beyond perhaps his closest
circle) state whether he will run for reelection. Interior
Minister Cossio said on September 2 that Uribe would hold off
on declaring his intentions until after the results of the
public referendum. Some observers suggest that Uribe is
keeping the referendum alive to avoid lame duck status, but
will claim victory from the public support and eventually
step aside "for the good of democratic institutions."
Others, convinced he wants to extend his legacy to twelve
years, point to Uribe's competitive streak and a widespread
belief that only he can lead Colombia in these trying times
of internal terrorism and external threats. "U" Party
members have confirmed that the strategy has been to keep the
referendum as "by and for the people," and not about Uribe's
wishes. By keeping silent, Uribe keeps the option of
gracefully bowing out if any of the remaining steps become
too difficult to overcome. The several Uribe supporters who
have their own presidential ambitions will have to wait until
he makes up his mind. The deadline for those potential
candidates to declare their candidacies is March 12, so the
wait could be a long one. End Comment.
Brownfield